**Franchise Tax Board**

# SUMMARY ANALYSIS OF AMENDED BILL

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|---|---|---|---|---|---|
| Author: | Evans | Analyst: | Deborah Barrett | Bill Number: | AB 1342 |
| Related Bills: | See Prior Analysis | Telephone: | 845-4301 | Amended Date: | April 13, 2009 |
| | | Attorney: | Patrick Kusiak | Sponsor: | |

**SUBJECT:** County Personal Income Tax

____ DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended ____________________.

_X_ AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

____ AMENDMENTS DID NOT RESOLVE THE DEPARTMENTS CONCERNS stated in the previous analysis of bill as introduced/amended ____________________.

____ FURTHER AMENDMENTS NECESSARY.

____ DEPARTMENT POSITION CHANGED TO ____________________.

_x_ REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED February 27, 2009, STILL APPLIES.

____ OTHER – See comments below.

## SUMMARY

This bill would authorize the board of supervisors of any county to place on a ballot by ordinance subject to voter approval, either provisions to impose a county income tax to be assessed and collected by Franchise Tax Board (FTB) or provisions to impose a vehicle license fee administered by Department of Motor Vehicles, or both.

## SUMMARY OF AMENDMENTS

The April 13, 2009, amendments would authorize localities to, by ordinance, propose by ballot a local personal income tax and clarify that the local income tax would be calculated as a percentage of the state income tax paid by the county resident and would clarify that FTB would both assess and collect the tax imposed. The “Technical Consideration” identified in the department’s analysis of the bill as introduced February 27, 2009, has been resolved. The “This Bill”, “Implementation Considerations”, “Fiscal Impact”, and “Economic Impact” discussions have been revised. The remainder of the department’s analysis of the bill as introduced February 27, 2009, still applies.

| Board Position: | | | Asst. Legislative Director | Date |
|---|---|---|---|---|
| ____ S | ____ NA | ____ NP | | |
| ____ SA | ____ O | ____ NAR | Patrice Gau-Johnson | 04/23/09 |
| ____ N | ____ OUA | _X_ PENDING | | |

**POSITION**

Pending.

THIS BILL

This bill would, in addition to any other tax authority granted under law, authorize the board of supervisors of any county or city and county to, by ordinance, place on a ballot either or both of the following:

1. A local personal income tax subject to the following conditions:

   - The local personal income tax shall be calculated as a percentage of state personal income taxes paid by a resident of the county in which the local personal income tax is imposed during the corresponding year, excluding any refundable portions of refundable credits.
   - The local personal income tax shall be assessed and collected by FTB.
   - FTB shall transmit all revenues, less its cost of administration, to the county or city and county in which the local personal income tax is imposed.

2. A local license fee on any vehicle of a type that is subject to registration under the Vehicle Code, subject to the following conditions:

   - The aggregate license fee rate imposed on any vehicle shall not exceed 2 percent of the market value of that vehicle.
   - The local license fee shall be assessed and collected in the same manner as assessed and collected under the Vehicle License Fee Law.
   - The local license fee shall be administered by the Department of Motor Vehicles (DMV).
   - DMV would transmit all revenues, less costs of administration and refunds, to the county in which the tax is imposed.

This bill would require that the tax or fee be imposed in accordance with all constitutional and statutory voter approval requirements imposed by law. The bill also provides legislative findings that it is appropriate and necessary to shift some authority and responsibility back to local government agencies to allow those agencies to determine the level of services appropriate for their citizens.

IMPLEMENTATION CONSIDERATIONS

The department has identified the following implementation concerns. Department staff is available to work with the author's office to resolve these and other concerns that may be identified.

This bill would authorize a local personal income tax that is based on a percentage of state personal income tax "paid" by a resident of a county that has imposed a local income tax. It is unclear whether the author intends "paid" to mean the amounts remitted with the return, including timely estimate payments or withholding, or is referring to the tax liability as shown on the income tax return. Clarification would assist FTB in administering the provisions of this bill.

The collection tools available to the FTB to collect state income tax and nontax debts referred to FTB for collection are specifically authorized for those purposes. It is recommended that express authorization for FTB to collect the county income tax in the same manner as state income tax is collected, including all available collection remedies, be added to maximize the effectiveness of FTB's collection efforts for county income tax.

The bill is silent to whether the county income tax imposed would be subject to penalty, interest, or fees if unpaid. Additionally, while refundable credits would not be applicable to the county income tax, the bill is also silent on whether any other credit would apply in determining the county income tax base on which the tax would be imposed. Clarification would assist FTB to determine the extent to which reprogramming to existing systems, or the implementation of a new system, would be necessary to administer a county income tax.

Because the amount of the state income tax shown on a return is subject to audit, the amount shown may not reflect the amount determined to be due from a taxpayer. The bill is silent whether county income tax would be adjusted as the state income tax is adjusted and whether those adjustments are subject to protest and appeal or would be adjusted as a math error.

Additionally, appeals from a determination of tax by the FTB are heard before the State Board of Equalization (BOE). The bill is silent to whether BOE would also hear appeals for county tax, including claims for refunds for amounts of county tax paid. Express authority should be included in the bill language to establish who would hear the appeals and claims for refunds for county income taxpayers.

The current statute of limitations for collection of state income tax debts is 20 years. It is unclear if the same period would apply for the collection of county income tax debts. It is recommended that the period for the statue of limitations on collection of county income tax be specified so that all counties would have the same expectations.

The Taxpayer Bill of Rights (TBOR) in the Revenue and Taxation Code provides certain assurances for taxpayers regarding the conduct of FTB's employees and what can be expected from the taxing agency. It is unclear if the TBOR would apply to the county income tax administered by FTB. It is recommended that the bill specify whether the provisions of the TBOR apply to the administration of county income tax.

Taxpayers can elect to make payment of state use tax to the BOE on the state income tax return. Payments and credits are applied first to state income taxes, including penalties and interest, and secondly to the qualified use tax reported on the return. It is unclear what the priority for payment would be among state income tax, state use tax, and county income tax, when a taxpayer does not remit sufficient funds to cover all the tax reported on the return. It is recommended that the bill specify what the payment priority would be to eliminate disputes between taxpayers and the taxing agencies of the state.

FTB lacks the expertise and systems to distribute funds received for payment of county income tax to the county directly. It is recommended that the bill establish a fund specifically for purposes of the county income tax, direct that any money received by FTB for payment of the county income tax be deposited into that fund, and authorize the State Controller to disburse moneys deposited into the account after payment of expenses of administration.

**FISCAL IMPACT**

The department's costs to administer this bill cannot be determined until implementation concerns have been resolved but are anticipated to be significant. The fiscal impact will be developed as the bill moves through the legislative process.

**ECONOMIC IMPACT**

Based on data and assumptions discussed below, this bill would result in the following revenue losses.

| Estimated Revenue Impact of AB 1342<br>As Amended 04/13/2009<br>($ in Millions) | | | | | |
|---|---|---|---|---|---|
| | **2009-10** | **2010-11** | **2011-12** | **2012-13** | **2013-14** |
| Deduction | 0 | 0 | -$184 | -$186 | -$187 |

Estimates assume all counties would begin imposing a VLF fee on January 1, 2011. Based on this assumption, the proposed local fee would begin to be deducted on the 2011 tax returns that are filed in 2012.

**<u>Tax Revenue Discussion</u>**

The revenue impact of this bill would be determined by the amount of additional vehicle license fees deducted on income tax returns and the tax rates of taxpayers deriving a tax deduction benefit. The provision relating to local income taxation in this bill would not impact personal income or corporate tax revenues.

The Department of Finance's estimate of VLF remittances was utilized to determine the estimated vehicle values in 2011 of $349 billion. As calculated in ABX3 3 (Stats 2009, Ch.18), the state VLF was calculated at a rate of 1.15 percent of vehicle value for the first six months of 2011. This rate is reduced to .65 percent of the vehicle value on July 1, 2011. (Proposition 1A on the May 19, 2009 ballot, would extend the 1.15 percent rate through June 30, 2013.)

This estimate assumes each county will raise the local VLF to the maximum 2 percent of the vehicle value beginning in 2011. Assuming a local VLF of .85 percent for January though June of 2011 (2% maximum less 1.15% state VLF) and 1.35 percent from July 1, 2011 and subsequent years (2% maximum less .65% state VLF) would generate a total local VLF of approximately $3.84 billion (349 billion x .85% VLF x 6/12 months ≈ $1.48 billion and $349 billion x 1.35% VLF x 6/12 months ≈ $2.36 billion). If 50 percent of the $3.84 billion results in a tax deduction benefit to personal and corporate income taxpayers, applying a blended 7 percent tax rate yields a loss of approximately $134 million ($3.84 billion x 50% x 7%).

Taxable year estimates are converted to fiscal year cash flow estimates. In the table above, the revenue loss of $184 million for 2011-12 reflects a reduction in tax liability ($134 million for the 2010 tax year) and estimated payments ($50 million for the 2011 tax year) for the subsequent tax year.

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